

**BEFORE THE PERSONNEL RESOURCES BOARD**  
**STATE OF WASHINGTON**

LYNNE WALDHER, AL FIROUZI,  
AZIZ MAKARI, and HENRY  
KORNDORFER,  
Appellants,  
vs.  
DEPARTMENT OF TRANSPORTATION,  
Respondent.

CASE NOS. R-ALLO-08-026, R-ALLO-09-005,  
R-ALLO-09-006, and R-ALLO-09-009

ORDER OF THE BOARD  
FOLLOWING HEARING ON  
EXCEPTIONS TO THE  
DETERMINATIONS OF THE DIRECTOR

**Hearing on Exceptions.** These appeals came before the Personnel Resources Board, JOSEPH PINZONE, Chair; LAURA ANDERSON, Vice Chair; and DJ MARK, Member, for a consolidated hearing on Appellants' exceptions to the director's determinations dated December 5, 2008 for Appellant Waldher and March 3, 2009 for Appellants Firouzi, Makari and Korndorfer. The hearing was held at the office of the Personnel Resources Board in Olympia, Washington, on July 15, 2009.

**Appearances.** Appellants were present and were represented by Vincent Oliveri, union representative with IFPTE, Local 17. Respondent Department of Transportation (DOT) was represented by Niki Pavlicek, Manager of Classification, Compensation and Operations.

**Background.** Appellant Waldher's position was allocated to the Transportation Technician 3 (TT3) classification. On May 18, 2007, she submitted a Classification Questionnaire (CQ) asking DOT to reallocate her position to the Transportation Engineer 3 (TE3) classification. By letter dated January 9, 2008, DOT reallocated her position to the Transportation Engineer 2 (TE2) classification.

On February 8, 2008, Appellant Waldher filed a request for a director's review of DOT's allocation determination. By letter dated December 5, 2008, the director's designee determined that Appellant's position was properly allocated to the TE2 classification. On December 18, 2008, Appellant Waldher filed exceptions to the director's determination.

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2 Appellants Fiouzi's, Makari's, and Korndorfer's positions were allocated to the TE2 classification. On  
3 August 7, 2007, Appellant Fiouzi submitted a CQ asking DOT to reallocate his position to the TE3  
4 classification. On June 7, 2007, Appellant Makari and Appellant Korndorfer submitted their CQs asking  
5 DOT to reallocate their positions to the TE3 classification. By letter dated January 9, 2008, DOT denied  
6 Appellants Fiouzi's, Makari's, and Korndorfer's reallocation requests.

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8 On January 22, 2008, Appellants Fiouzi, Makari, and Korndorfer filed requests for a director's  
9 review of DOT's allocation determinations. By letter dated March 3, 2009, the director's designee  
10 determined that Appellants' positions were properly allocated to the TE2 classification. On March  
11 17, 2009, Appellant Fiouzi filed exceptions to the director's determination. On March 18, 2009,  
12 Appellant Makari filed exceptions to the director's determination. On March 23, 2009, Appellant  
13 Korndorfer filed exceptions to the director's determination.

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15 Appellants' exceptions are the subject of this proceeding.

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17 Appellants work in the Northwest Region, Region Programs and Services Division, Utilities Office  
18 of DOT. Mr. Ahmad Wehbe is Appellants' immediate supervisor. Appellants' working titles are  
19 Utility Accommodation Engineer. Appellants independently perform transportation engineering  
20 work to review and recommend utility accommodation and utility permit/franchise approvals. They  
21 review all supporting designs and drawings for the permit/franchise, meet with representatives of  
22 the various utilities and DOT specialists, and make recommendations as to whether the permits or  
23 franchises should be approved. They make recommendations for utility placement/accommodation  
24 for projects impacting state roads and right of ways in the Northwest Region. Their work requires  
25 them to apply local, state and federal regulations and engineering principles while working with  
26 projects involving challenges such as the aging infrastructure of bridges, geotechnical concerns and  
27 hydrogeologic issues.

1 **Summary of Appellants' Arguments.** First, Appellants argue the director's designee misapplied the  
2 decision in Mikitik v. Dept's of Wildlife and Personnel, PAB (Personnel Appeals Board) No. A88-  
3 021 (1989). Appellants assert that Mikitik addressed specific duties found in the definition of a  
4 classification as opposed to a more general classification. Appellants contend that this concept  
5 should not be applied to the distinguishing characteristics found in a classification.

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7 Second, Appellants argue that the director's designee failed to recognize that they perform  
8 advanced engineering work. Appellants explain that they provide utility permits and franchises to  
9 utility companies wishing to utilize DOT's right of way in the Northwest Region which requires  
10 them to perform the role of staff specialists in a complex area of limited scope. Appellants also  
11 contend that they work under limited supervision and that they perform advanced engineering  
12 work. Appellants explain that their positions have changed significantly since 2005 and that rather  
13 than their focus being on reviewing paperwork and completing a checklist, they now process  
14 applications, review drawings and specifications, attend and speak at meetings with customer  
15 representatives, interact with specialists in various fields such as hydrology, traffic, and  
16 geotechnology, and make recommendations for whether a permit or franchise should be granted.  
17 Appellants assert that their positions should be reallocated to the TE3 classification.

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19 **Summary of Respondent's Arguments.** Respondent argues that the positions are properly allocated,  
20 that the level of work Appellants perform is encompassed by the TE2 classification, and that the  
21 reporting structure within the region supports that these positions should remain allocated to the TE2  
22 classification. Respondent contends that Appellants' work does not meet the level of creativity and  
23 advanced engineering required for allocation to the TE3 class. Respondent asserts that a TE3 is typically  
24 in charge of a functional area with staff supervision or functions as a staff specialist in an area of limited  
25 scope such as a recognized engineering discipline, and performs advanced level engineering work as  
26 described in the typical work of the TE3 classification. Respondent contends that Appellants are not in  
27 charge of a functional area and that they do not function as staff specialists performing advanced  
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1 engineering work in an area of limited scope, therefore, their positions do not fit within the TE3  
2 classification.

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4 **Primary Issue.** Whether the director's determination that Appellants' positions are properly allocated  
5 to the Transportation Engineer 2 classification should be affirmed.

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7 **Relevant Classifications.** Transportation Engineer 2, class code 530L (formerly 66140);  
8 Transportation Engineer 3, class code 530M (formerly 66160).

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10 **Decision of the Board.** Appellants take exception, in part, to the director's designee's reference to  
11 Mikitik v. Dept's of Wildlife and Personnel, PAB (Personnel Appeals Board) No. A88-021 (1989).  
12 In Mikitik, the appellant's position title was specifically included in the definition of the  
13 classification to which his position was allocated. Mikitik states, in relevant part:

14       The proper allocation of a position is determined by comparing the class  
15       specifications to the duties of the position. When there is a class definition that  
16       specifically includes a particular assignment and there is a general classification that  
17       has a definition which could also apply to the position, the position will be allocated  
18       to the class with the definition that includes the position.

19 The director's designee did not err in her reliance on the concept discussed in Mikitik. The concept  
20 of allocation to a specific rather than a general classification has been applied in numerous cases.  
21 This concept is not limited to the definitions found in the classifications at issue.

22 For example, in Cerna v. Employment Security Dept., PAB No. ALLO-03-0014 (2003), the board  
23 stated that "[i]t is not intended for a more generic classification to be used to allocate a position  
24 where the duties and responsibilities of the position are more precisely described by a more specific  
25 classification." [See also Nance v. Eastern Washington University, PAB No. 3769-A2 (1995)].

26  
27 The purpose of a position review is to determine which classification best describes the overall duties  
28 and responsibilities of a position. A position review is neither a measurement of the volume of work

1 performed, nor an evaluation of the expertise with which that work is performed. A position review is a  
2 comparison of the duties and responsibilities of a particular position to the available classification  
3 specifications. This review results in a determination of the class that best describes the overall duties  
4 and responsibilities of the position. See Liddle-Stamper v. Washington State University, PAB Case No.  
5 3722-A2 (1994).

6  
7 The definition for the TE2 classification states, “[p]erforms transportation engineering work under  
8 general supervision.”

9  
10 Incumbents who work under general supervision perform “recurring assignments within established  
11 guidelines without specific instruction. Deviation from normal policies, procedures, and work methods  
12 requires supervisory approval. Supervisory guidance is provided in new or unusual situations. The  
13 employee’s work is periodically reviewed to verify compliance with policies and procedures.” (See the  
14 Department of Personnel Glossary of Classification, Compensation, and Management terms).

15  
16 Appellants exercise a level of independence in the performance of their work that goes beyond general  
17 supervision. Rather, Appellants level of supervision is best described as working under general direction  
18 which is defined as:

19 Performs assignments within established policies and objectives. Incumbents plan  
20 and organize the work, determine the work methods, and assist in determining  
21 priorities and deadlines. Completed work is reviewed for effectiveness in producing  
22 expected results.

23 The distinguishing characteristics for the TE2 classification state:

24 Work at this level is characterized by the independent application of standard  
25 engineering procedures and techniques to accomplish a wide variety of work in the  
26 office, laboratory, and/or field. Incumbents generally serve as full production staff  
27 or crew leaders. Work is assigned through general instructions and the setting of  
28 deadlines by a supervisor who engages in ongoing spot-check review, provides  
assistance when problems are encountered and reviews completed work. This role  
may include the leadership of technical support staff and entry level engineers such  
that incumbents are called upon to direct and train staff.

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2 In some of their work, Appellants independent apply standard engineering procedures and techniques.  
3 However, the nature of their work requires them to utilize creativity in making recommendations  
4 for utility placement/accommodation. In addition, their work requires them to apply local, state  
5 and federal regulations and engineering principles while working with specialized, complex issues  
6 and projects involving challenges such as the aging infrastructure of bridges, geotechnical concerns  
7 and hydro-geologic issues. Appellants' work goes beyond the scope of work described in the TE2

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9 The definition for the TE3 classification states, "[p]erforms advance transportation engineering work  
10 under limited supervision."

11  
12 Appellants receive general direction and perform their work independently. Their positions meet  
13 the level of supervision found in the TE3 definition.

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15 The distinguishing characteristics for the TE3 classification state, in relevant part:

16 At this level, incumbents . . . serve as a staff specialist in a complex area of limited  
17 scope (this may include serving as a staff specialist consultant to Local Agencies).  
18 Incumbents are expected to possess a thorough working knowledge of agency  
19 policies, standards and procedures as well as engineering principles, methods and  
20 practices. Assignments require judgments in selecting and adapting techniques to  
21 solve transportation problems. Incumbents may represent the Department at public  
22 meetings, open houses, to local agencies, contractors, consultants, etc., for specific  
23 projects. While work is occasionally spot-checked and reviewed upon completion,  
24 incumbents are responsible for planning and carrying out projects with only minimal  
25 supervision. Staff at this level are often called on to assign, train and evaluate  
26 engineers and technicians.

27 The scope of Appellants' work is limited to utility permits and franchises. The nature of their work  
28 requires them to utilize creativity and judgment when making recommendations for utility  
29 placement accommodation. In addition, their work requires them to apply local, state and federal  
regulations and engineering principles while working with specialized, complex issues and projects  
involving challenges such as the aging infrastructure of bridges, geotechnical concerns and hydro

1 geologic issues. Further, they represent DOT at meetings with representatives of the various  
2 utilities, their contractors and other DOT specialists. Appellants function as specialists in utility  
3 placement and accommodation and in utility permits and franchises. Due to the many variables and  
4 specialized engineering components involved in determining whether utilities can be  
5 accommodated and whether utility permits and franchises should be granted, Appellants' work  
6 meets the complexity of work encompassed at the TE3 level.

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8 In a hearing on exceptions, the appellant has the burden of proof. WAC 357-52-110. Appellants have  
9 met their burden of proof. Therefore, the appeal on exceptions should be granted, and the director's  
10 determinations, dated December 5, 2008 and March 3, 2009, should be reversed.

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12 **ORDER**

13 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeals on exceptions by Lynne Waldher,  
14 Al Firouzi, Aziz Makari, and Henry Korndorfer are granted and their positions are reallocated to the  
15 Transportation Engineer 3 classification

16 DATED this \_\_\_\_ day of \_\_\_\_\_, 2009.

17 WASHINGTON PERSONNEL RESOURCES BOARD

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19 \_\_\_\_\_  
20 JOSEPH PINZONE, Chair

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22 \_\_\_\_\_  
23 LAURA ANDERSON, Vice Chair

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25 \_\_\_\_\_  
26 DJ MARK, Member